

* E-filed on 10/27/06 *

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 INC.

ORIGINAL
 FILED

OCT 26 2006

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 (San Jose Division)

11 IN RE
 12 CYGNUS TELECOMMUNICATIONS
 13 TECHNOLOGY, LLC, PATENT
 14 LITIGATION
 15) Case No. MDL-1423 RMW
 16) AND ORDER
 17) STIPULATION TO ALTER DATES
 18)
 19)
 20)

21 Defendants, through Liaison Counsel, and Plaintiff seek to slightly alter the dates set
 22 forth in the court's Order dated August 21, 2006. All dates set prior to October 24, 2006, have
 23 been met, and the October 27 deadline for Plaintiff to submit its claim construction brief remains
 24 as set in the August 21 Order. Thus, there is no change in the due dates set on page 2 of the
 25 Order.

26 As to the table on page 3 of the August 21 Order, Defendants seek to separate out
 27 motions for summary judgment on invalidity from motions for summary judgment on
 28 infringement. Defendants propose to submit three joint motions on invalidity on October 27,
 2006, according to the first date on page 3. One motion will relate to issues under 35 U.S.C.
 §102; a second will relate to issues under §103; and a third will relate to issues under §112. The
 preliminary invalidity contentions of Defendants raised over forty different invalidity issues.
 Cygnus attempted to remove the issues raised in the two Reexamination proceedings from

1 consideration at the November 20 hearing, but that motion was denied without prejudice. In
 2 order to allow Plaintiff to see whether any of the forty-odd defenses may be dropped, the parties
 3 stipulate that Plaintiff shall have until November 3, 2006, to file its motions regarding validity.
 4 This stipulation balances the court's provision of a week after Plaintiff's claim construction brief
 5 for Defendants to submit a claim construction brief in the second box of page 3 of the order.
 6 Plaintiff will file its oppositions to the three invalidity briefs on November 10, rather than on
 7 November 3 as specified in the table on page 3 of the Order. Also on November 10, Plaintiff
 8 will reply to the claim construction opposition that Defendants filed on November 3.

9 Using the tabular format of the August 21 Order, the parties stipulate to the following:
 10

11	October 27, 2006	Plaintiff's claim construction brief
12	October 27, 2006	Defendants' summary judgment motions on invalidity
13	November 3, 2006	Defendants' claim construction brief
14	November 3, 2006	Plaintiff's opposition to invalidity motions
15	November 3, 2006	Defendants' summary judgment motions on noninfringement
16	November 10, 2006	Plaintiff's reply claim construction brief
17	November 10, 2006	Plaintiff's opposition to infringement motions
18	November 10, 2006	Defendants' reply on invalidity

19 None of the changes affect the hearing date of November 20, 2006.
 20

21 STIPULATED ON BEHALF OF PLAINTIFF:
 22

23 October 25, 2006

24 
 25 John P. Sutton
 26 Attorney for Plaintiff
 27 CYGNUS TELECOMMUNICATIONS
 28 TECHNOLOGY, LLC.

10/23/06
Date


Kieran Fallon
Liaison Counsel and
Attorney for Interactive Media Technologies, Inc.

THE PARTIES HAVING STIPULATED, IT IS SO ORDERED.

The courthouse will be closed on Nov. 10, 2006 for Veterans' Day. The court's Oct. 26, 2006 order is vacated. If defendants file a motion to dismiss for lack of subject-matter jurisdiction by November 3, 2006, any opposition shall be due Nov. 9, any reply shall be due Nov. 12, and a hearing shall be held on Nov. 17, 2006.

10/27/06
Date


Ronald M. Whyte

United States District Judge